

NORTHAMPTON LICENSE COMMISSION
FEBRUARY 4, 2009
Minutes

Commissioner Brad Shimel opened the License Commission meeting at 4:00 P.M., in City Council Chambers, 212 Main Street, Northampton. Commissioner Bill Rosen was also present.

1. APPLICATION FOR CHANGE OF MANAGER AND CHANGE OF OFFICERS/DIRECTORS

VAEP, LTD d/b/a Mulino's Trattoria and Bishop's Lounge
41 Strong Avenue, Northampton, MA 01060

Present on behalf of the applicant were Attorney Martha Ferrabelo, Volkan Polatol, President of VAEP, LTD and Efthimios Rizos, proposed new manager. Attorney Ferrabelo and Mr. Polatol explained that the other partner has left to pursue another venture. New proposed manager has over 20 years' experience. Signed up for TIPS class on Monday, February 9, 2009.

Commissioner Rosen made the motion to approve the application; Commissioner Shimel seconded. The vote passed unanimously (2-0).

2. RECONSIDERATION OF APPLICATION (due to additional documentation required by A.B.C.C. :

Application for CONVERSION of a Seasonal Wine and Malt License to Annual Wine and Malt License, and for outdoor seating and service of wine and malt:

The Olive Juice Company, Inc.
D/b/a Les Gras Bistro & Market
25 West Street, Northampton, MA
Manger of record: Daniel Martinez

Present on behalf of the applicant was Alan Vershon. This reconsideration has no changes; additional documentation required by the ABCC. Commissioner Rosen stated he would inquire regarding the intent of the legislation which authorized these such conversions.

Commissioner Rosen made the motion to approve the application; Commissioner Shimel seconded. The vote passed unanimously (2-0).

3. VIOLATION HEARING – BOWL NEW ENGLAND, INC. D/B/A SPARE TIME - NORTHAMPTON

Date of Violation: December 27, 2008

IN THE MATTER OF: Bowl New England, Inc. d/b/a Spare Time Northampton, 525 Pleasant Street,
Northampton, MA 01060

NATURE OF VIOLATIONS:

Violation of Northampton License Commission 2:00 AM Closing Rules:

Section 2. No admittance of patrons shall be permitted by a licensee after 1:00a.m. No patron present on the premises on or before 1:00 a.m. who leaves the premises for any reason shall be readmitted to the premises after 1:00 a.m. on that day.

Section 6. All licensees granted extended closing hours must have an agent or employee present at each entrance and exit during extended hours to monitor compliance with the foregoing rules. Each agent or employee shall be easily identifiable as an agent or employee of the licensee. Licensees shall maintain a log containing the name and date of service of each such agent or employee. The log shall be produced by the licensee immediately upon request by the License Commission or the Northampton Police Department and shall be admissible in any proceeding before the License Commission relative to an alleged violation of these rules regarding extended hours.

At the hearing, William F. Bullock, General Manager, and Shawn McDowell, District Manager for Bowl New England, were present for the licensee. Northampton Police Officer Justin Hooten was also present. At the hearing, the licensee produced a letter of concerns (attached), and explained to the Commission the measures they have taken or will take to ensure compliance, including notification to the Northampton Police Department if any event would be open until 2 a.m. The licensee explained that, due to economic restraints, they may choose to remain open only until 1 a.m., using the 2 a.m. closing only for special events.

After deliberation, the Commission found that violations of Special Rule Governing the 2:00 a.m. Closings, Sections 2 and 6, had occurred. The Commission imposed no sanctions due to evidence presented by the licensee of complete intention to remain in compliance with said rules.

Commissioner Shimel closed the Violation Hearing; Commissioner Rosen seconded. The vote to close the Violation Hearing passed unanimously (2-0).

4. Heather Warner, SPIFFY – regarding Compliance checks in City of Northampton, MA

Ms. Warner spoke regarding the January 14, 2009 Alcohol Compliance Check that was conducted from approximately 4:30 PM to 8:30 PM. It was impressive that only three establishments were in violation regarding serving of alcohol to a minor. Some further education and updating of TIPS training would be recommended, especially for the offending establishments. An example of the Town of Plymouth is attached for ideas of how to address this issue. Ms. Warner spoke of concerns regarding the new policies of cities and towns regarding marijuana use from passage of Question 2.

5. APPROVAL OF MINUTES – JANUARY 7, 2009

Commissioner Rosen made the motion to approve the minutes of January 7, 2009; Commissioner Shimel seconded. The vote passed unanimously (2-0).

6. NEW BUSINESS:

a. Request for Violation Hearings from Northampton Police Department regarding Alcohol License Compliance Check of January 14, 2009:

1. Osaka Japanese, Inc. d/b/a Osaka, 7 Old South Street, Northampton
2. Veracruz Foods, Inc. d/b/a La Veracruzana, 31 Main Street, Northampton
3. Anmarlu, Inc. d/b/a Pinocchio Pizza By the Slice, 122 Main Street, Northampton
- 4.

Violation Hearing date of March 4, 2009 is set for the above establishments, contingent upon if this is convenient for the police schedule.

b. Discussion of Licensing Late Fees – Cost savings – increase late fees? Sliding scale?

The Clerk presented a list of outstanding licenses: Common Victualler, Weekday Entertainment, Auto Amusement Devices, Lodging, Car Dealers. The Clerk is sending notices to all establishments that says "YOU ARE OPERATING WITHOUT A VALID LICENSE! The Northampton License Commission has been notified." Late fees are currently at \$5.00 per month. This was approved beginning February 2008.

Commissioner Shimel asked the Clerk to clarify with City Solicitor whether we can hold Violation Hearings for outstanding licensees. He suggested a reminder notice of first month, second reminder, then Violation Hearing in third month.

c. Signatures of License Commission needed for A.B.C.C. document regarding estimated resident population as of July 10, 2004.

Commissioners Shimel and Rosen signed the document of Estimated Resident Population as of July 10, 2004 at 29,300. This information was provided by Wendy Mazza, Northampton City Clerk.

7. ANY OTHER BUSINESS – NEXT MEETING MARCH 4, 2009

RE: Calvin Theater – Eric Suher was present and described the January 16-17 venue which resulted in arrests and problems with some patrons inhaling nitrous oxide, dirty drugs, patrons becoming ill during concert by Disc Biscuit band – he has booked this band 11 times before, no problems, but these bands get a certain following and sometimes problems do occur. Great cooperation with Police and Fire and EMS, and no problems on the second night of the event.

Some items with new information from ABCC:

It is not legal to include a bottle of wine in a raffle.

RE: An article on front page of Hampshire Gazette, Monday, February 2, 2009 – Free Wine given for charitable donation of pair of jeans at Jackson & Connor in Thornes Marketplace. The Clerk spoke with Ralph Sacramone, Director of Operations at ABCC: This is not legal, establishment has no liquor license, per MGL Chapter 138, section 41:

Chapter 138: Section 41. Delivery of alcoholic beverages as prima facie evidence of sale

Section 41. The delivery of alcoholic beverages in or from a building, booth, stand or other place, except a private dwelling house, or in or from a private dwelling house if any part thereof or its dependencies is used as an inn, eating house or shop of any kind, or other place of common resort, such delivery in either case being to a person not a resident therein, shall be prima facie evidence that such delivery is a sale.

Commissioner Shimel made the motion to adjourn at 5:08 PM; Commissioner Rosen seconded the motion. The vote passed unanimously (2-0).

Response to Violation on 12-27-08 – Spare Time Northampton

Response to Section 2 and 6 in regards to no admittance after 1am and having an agent or employee present at each entrance and exit during extended hours.

Background Information

When we received our updated license for the extended hours I called Mary Midura with a few questions before we started with the new license. I had asked Mary about having 4 entrances into our building, instead of having all the doors covered, would it be ok if we wrist banded people before 1 A.M. The reason I asked that was for the fact that our main business, the Bowling Center, has patrons coming in and out after 1am. We asked this because to staff 4 extra people for 3 hours just would not make business sense for cost of payroll. I explained that if we wrist band people, anyone entering after 1 A.M. would not be served. Mary told me she would check and get back to me that afternoon. A few hours later, Mary called me and said she checked with someone and that as long as we were wrist banding people prior to 1am that would be fine.

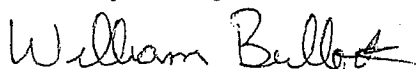
As for the violation on December 27th, we did have an employee on staff that evening whose job was to watch the City Sport entry. Unfortunately, our employee was not doing there job. I am the one that is usually on the bar door during Friday evenings, but was out of town for the weekend. Again, no excuses, when the officer arrived, our employee was not on the door. We did however wristband all patrons that were on our premises prior to 1 A.M.

Once the officer notified us of the violation, we immediately took corrective measures to ensure this would never happen again. To be quite honest, we also stopped opening past 1am, except for a few special occasions.

We do have concerns based on the paperwork received from the violation that we should discuss. Our business is unique for this license, and the way we handle bowling customers versus lounge patrons need to be addressed today so we are all on the same page. I certainly do not want to violate any of the City of Northampton License Commission's requirements, and look forward to working with you to promote a safe and responsible establishment.

Bowl New England Inc., d/b/a Spare Time NHT-City Sports Grille is not looking to be in business for the short term. We are a family based business that looks forward to serving this community for years to come.

Thank you for your time and consideration.



William Bullock

Manager

Spare Time ~ NHT / City Sports Grille

TOWN OF PLYMOUTH

POLICY: SERVER TRAINING REQUIREMENTS FOR LIQUOR LICENSE HOLDERS

Board of Selectmen/1997/01/00

Approved: December 16, 1997

Effective: April 1, 1998

1.0 PURPOSE

To require all liquor license holders, managers, and servers to complete server training.

2.0 POLICY GUIDELINES

A) Mandatory Training Requirements

All liquor license holders, including but not limited to, licensees holding an all-alcohol, including seasonal or one-day license, beer and wine license, private club license or retail package store license shall participate in a program designed to train management and bartender employees in methods of observation and detection to avoid selling or serving to intoxicated persons and/or minors. The manager shall have successfully completed such program prior to his/her appointment and such training and successful completion shall also be required for all bartenders at all establishments with a bar.

B) Programs Available

Listed below are programs that are currently available which meet the requirement of this policy:

- 1) Training for Intervention Procedures by Servers of Alcohol (TIPS).
- 2) Techniques of Alcohol Management (T.A.M.) sponsored by the Massachusetts Package Store Association.
- 3) Any insurance industry-approved or qualified program offered by a certified trainer and approved by the Board of Selectmen.

C) Verification of Server Training

All Establishments must maintain during operating hours, in an accessible place, a roster or certificate of trained personnel, which shall be maintained for each employee and shall be available for inspection by the licensing authority, or any authorized agent thereof, upon demand at all times. An updated roster shall be submitted with the annual application for the renewal of the license. The roster shall include: (1) employee name; (2) employee date of birth; (3) date of hire; (4) type of training; (5) training certificate date; and (6) date of expiration. (See roster sample on back page)

D) Re-Certification:

All management and bar personnel shall be required to be re-certified prior to the expiration of the certification granted by an approved program listed in Paragraph 2. (You must be re-certified every three years regardless of the training program).

E) Implementation

All employees required to receive training hereunder must complete such training within thirty (30) days from the date of employment, except that managers shall be trained prior to appointment as set forth in Paragraph 1. With regard to 1998 license renewals only, each establishment must have at least one management person as well as each bartender trained and certified on or before April 1, 1998. In the event any such license holder is unable to meet these requirements, such license holder must request an extension in writing from the Board of Selectmen on or before March 15, 1998 and for good cause, the Board may grant a further extension not to exceed sixty (60) days in order to allow the license holder to comply with the provisions hereof. Any violation of this paragraph may result in a suspension of the license or such other action deemed appropriate by the Licensing Authority until such license holder complies with the provisions hereof.

F) Employee in House Training:

All other employees who serve or sell alcoholic beverages shall receive, at a minimum, in-house training similar to that received under the required program set forth in Paragraph 2. A written description of such program, along with a written policy outlining the employee's responsibilities and the disciplinary measures which will be taken against any employee for violating said policy, shall be maintained on the premise at all times. The employee training program shall include the proper procedures for verifying that patrons are at least 21 years of age and not intoxicated. The policy must include mandatory carding for everyone appearing under 27 years of age. A copy of such policy shall also be appended to each renewal application on an annual basis. A signed certification of each employee indicating that the employee has received the described training and has reviewed and understands the written policy describing his or her responsibilities of the disciplinary action which will be taken for violations, shall be maintained on the premises at all times. Copies of all such documents and certifications shall be available to the licensing authority, or any authorized agent thereof, upon demand.

G) Penalty Guidelines

Licenses in violations of the training requirements set forth hereunder shall be subject to the following range of discipline:

First Offense - Warning to seven (7) days suspension.

Second Offense - Warning to thirty (30) days suspension.

Third or Subsequent Offense - Warning to Revocation

The penalty guidelines are only a guide. The Licensing Authority may use its discretion in determining whether the facts surrounding a violation warrant a penalty which is more lenient or severe than that suggested by the guidelines. The penalty guidelines shall not be construed so as to limit the Licensing Authorities' power to consider alternative dispositions, or further conditions on a license or even alternate penalties including, but not limited to, reduction and/or rolling back of operating hours.

3.0 Applicability

Refer to "A" under Policy Guidelines

4.0 Questions

Please contact the Selectmen's Office at (830-4000) if you have any questions regarding this policy.

RESPONSIBLE ALCOHOL SERVER TRAINING
TRAINER SOURCE GUIDE
TELEPHONE NUMBERS

Name	Training for:	Program	Telephone Number
Frank Anazalotti	Package Stores Only	T.A.M.	1-800-322-1383
Louise Hague	Rest./Bar and Package Stores	T. I. P. S.	(508) 888-2855
Mike Marcantonio	Rest./Bar and Package Stores	T. I. P. S.	1-800-286-7659
Edward McCann	Rest./Bar and Package Stores	T. I. P. S.	(781) 545-6214
Mass. Rest. Assoc.	Rest./Bar Only	BAR CODE	1-800-852-3042
Bernard Milton	Rest./Bar and Package Stores	T. I. P. S.	(617)734-6411
Robert Stefanik	Rest./Bar Only	BAR CODE	(888)-673-5566
Dan Trent	Rest./Bar Only	A. I. M.	(508) 756-8542

TOWN OF PLYMOUTH

LIQUOR LICENSE HOLDERS SERVER TRAINING CERTIFICATION

I hereby certify that at least one management person as well as all bartenders of my establishment has been trained in a program designed to train management and bartender employees in the methods of observation and detection to avoid selling or serving to intoxicated persons and/or minors.

NAME AND TITLE OF MANAGEMENT PERSON SO TRAINED

NAME(S) OF ALL BARTENDERS

SIGNED: _____

MANAGER

PRINTED NAME

DATE

NAME OF ESTABLISHMENT